

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20809

Application 30125 of York Creek Vineyards,

3601 Langtry Road, St. Helena, CA 94574

filed on May 5, 1992, has been approved by the State Water Resources Control Board
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

1) Unnamed Stream

Santa Rosa Creek thence

Laguna De Santa Rosa thence

Mark West Creek thence

Russian River thence

Pacific Ocean

2) Unnamed Stream

York Creek thence

Napa River thence

San Pablo Bay

| 2. Location of points of diversion and Point of Rediversion: | 40-acre subdivision of public land survey or projection thereof | Section | Township | Range | Base and Meridian |
|--|---|---------|----------|-------|-------------------|
| 1) Reservoir No. 1 (POD) North 307,400 feet and East 1,843,700 feet | NW $\frac{1}{4}$ of NE $\frac{1}{4}$ | 32 | 8N | 6W | MD |
| 2) Reservoir No. 2 (POD & PORD) North 307,300 feet and East 1,848,550 feet | NW $\frac{1}{4}$ of NE $\frac{1}{4}$ | 33 | 8N | 6W | MD |
| Both in California Coordinate System, Zone 2 | | | | | |

Counties of Sonoma and Napa
SWRCB14 (6-94)

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| 3. Purpose of use: | 4. Place of use: | Section | Township | Range | Base and Meridian | Acres |
|-----------------------|--------------------------------------|---------|----------|-------|-------------------|-------|
| Incidental Recreation | At Reservoir No. 1 within S½ of SE¼ | 29 | 8N | 6W | MD | |
| | N½ of NE¼ | 32 | 8N | 6W | MD | |
| | At Reservoir No. 2 within NW¼ of NE¼ | 33 | 8N | 6W | MD | |
| Frost Protection | | | | | | |
| Heat Control | | | | | | |
| Irrigation | NW¼ of SE¼ | 28 | 8N | 6W | MD | 28 |
| | SE¼ of SE¼ | 28 | 8N | 6W | MD | 14 |
| | SW¼ of SE¼ | 28 | 8N | 6W | MD | 35 |
| | NE¼ of SW¼ | 28 | 8N | 6W | MD | 26 |
| | SE¼ of SW¼ | 28 | 8N | 6W | MD | 35 |
| | SW¼ of SW¼ | 28 | 8N | 6W | MD | 28 |
| | NW¼ of SE¼ | 29 | 8N | 6W | MD | 17 |
| | SE¼ of SE¼ | 29 | 8N | 6W | MD | 18 |
| | SW¼ of SE¼ | 29 | 8N | 6W | MD | 3 |
| | NW¼ of NE¼ | 32 | 8N | 6W | MD | 8 |
| | NE¼ of NE¼ | 32 | 8N | 6W | MD | 26 |
| | NE¼ of NW¼ | 33 | 8N | 6W | MD | 10 |
| | NW¼ of NE¼ | 33 | 8N | 6W | MD | 8 |
| | NE¼ of NE¼ | 33 | 8N | 6W | MD | 4 |
| | | | | | Total | 260 |
| | | | | | | |

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 49 acre-feet per annum to be collected at Point of Diversion No. 1 from November 1 of each year to April 30 of the succeeding year and at Point of Diversion No. 2 from November 1 of each year to April 1 of the succeeding year.

(0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

(000005I)

The maximum rate of diversion to offstream storage shall not exceed two cubic feet per second from Point of Diversion No. 1.

(000005J)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants.

(0000006)

7. Construction work shall be completed by December 31, 2000.

(0000008)

8. Complete application of the water to the authorized use shall be made by December 31, 2004.

(0000009)

9. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued.

(0000010)

10. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

(0000011)

11. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1)adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2)the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

13. The State Water Resources Control Board reserves jurisdiction to impose conditions to conform this permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

(0000020)

14. Permittee shall install and maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board, in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. Before storing water in the reservoir under this permit, permittee shall furnish evidence which substantiates that an outlet pipe or alternative facility has been installed. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer.

(0050043)

15. If the storage dam is of such size as to be within the jurisdiction of the Department of Water Resources as to safety, storage of water under this permit shall not be commenced until the Department has approved the plans and specifications for the dam.

(0360048)

16. The total quantity of water diverted under this permit, together with that diverted under the license issued pursuant to Application 21540, shall not exceed 49 acre-feet per annum.

(0000114)

17. This permit is specifically subject to the prior rights of: (a) Cakebread Vineyards under appropriation issued pursuant to Permits 20446 and 20447 (Applications 29237 and 29238, respectively), (b) Silverado Vineyards under appropriation issued pursuant to Licenses 11135, 12400, and ~~11135~~ 11136 (Applications 24018, 27444, and 23308, respectively), (c) Heublin, Inc. under appropriation issued pursuant to Licenses 12348 and 12349 (Applications 23887 and 23888, respectively), (d) Heublin, Inc. under appropriation issued pursuant to Permits 18289A, 18289B, 18288A, and 18288B (Applications 25485A, 25485B, 25486A, and 25486B, respectively), (e) Robert Mondavi Vineyards under appropriation issued pursuant to Application 30102 and any permit granted pursuant to Application 30102, and also agrees not to interfere with those rights.

(000T001)

18. Permittee shall obtain County approval, for the development of all areas not currently under cultivation, prior to any soil or vegetation disturbance in these areas. A copy of the County's approval, and any erosion control or vegetation preservation plans, shall be submitted to the State Water Resources Control Board. Permittee shall comply with all conditions required by the County insofar as they are not inconsistent with the terms of this permit. (0400500)

19. For the protection of serpentine habitat, no disturbance to soil or vegetation shall occur on the soils identified as Montara cobbly clay loam, 2 to 30 percent slopes, and delineated on Sheet Number 68 of the Soil Survey for Sonoma County, California, prepared by the U.S. Soil Conservation Service. (0400500)

20. For the protection of northwestern pond turtle (*Clemmys marmorata marmorata*) during enlargement of Reservoir No. 2, the permittee shall take the following measures:

- a. Draw down the level of the reservoir to the maximum extent possible;
- b. Search the reservoir area thoroughly for pond turtles;
- c. Capture and transfer the pond turtles encountered to either Reservoir No. 1 or to an area downstream of Reservoir No. 2 where surface water is still apparent; and
- d. Check the reservoir area periodically during construction for additional pond turtles.

Permittee shall record the number and disposition of all pond turtles encountered and submit written documentation of such data to the State Water Resources Control Board, Division of Water Rights. (0400500)
(0090500)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

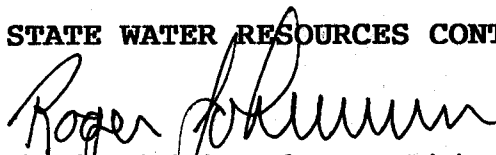
Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: NOVEMBER 1 1995

STATE WATER RESOURCES CONTROL BOARD


61 Chief, Division of Water Rights